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U.S. shouldn't meddle in running Internet economy

Technology titans' coalition wants the government to put its competitors at a disadvantage: Washington should adopt a hands-off policy on the issue, saying no to special interests

By Rep. John Conyers Jr. / Special to The Detroit News

One of the wonderful things about public life is the regular occurrence of irony. The successful ascendancy of congressional Republicans in 1995 helped reassure President Bill Clinton's re-election in 1996. Democrats -- who arguably sublimated the issue of budget deficits in the 1980s -- have now become the Capitol's deficit hawks.

But rarely have we seen an irony so delicious as the one we are seeing in the telecommunications industry today. In fact, the irony is so stark that it compels me to do something which is in itself ironic: write a commentary on behalf of deregulation.

For nearly a decade, a "hands-off" policy has been the mantra of much of the high-tech industry. Indeed, the debate over the proper government role in the tech industry hit a crescendo when the Department of Justice sued Microsoft, accusing it of misusing its monopoly in operating systems by configuring them to disadvantage, if not cripple, software and applications competitors. This type of abuse in a critical nerve center of the information economy, the government argued, could destroy competition and innovation.

Microsoft and its allies countered that the software giant was a prime innovator in computing technologies and so the government would best foster innovation by simply staying out. "Unwarranted discrimination against unaffiliated competitors was not only fictional but not in our self-interest," was Microsoft's often heard argument against a backdrop of raised fists. In such a "modular" industry, the success of Microsoft's operating systems depends on its ability to add value by attracting new applications and services, the argument would invariably continue.

So where is the irony?

Fast-forward 10 years. Now comes the Coalition for Broadband Users and Innovators -- whose members include Microsoft, Amazon.com and Yahoo! -- urging the government to prospectively regulate the Internet economy to prevent a theoretical threat to its "openness." At a recent, sparsely attended press conference, with a few other tech titans in tow, the CBUI announced its support for the seemingly innocuous notion of "network neutrality." While unable to define specifically the moniker's meaning, the CBUI nevertheless urged its adoption.

What the coalition seems to be ambling toward is getting the government to adopt rules ensuring that high-speed cable modems be configured to allow interconnection with equipment of end users for such services as WiFi, that broadband subscribers have unimpeded access to Web sites and portals and that cable operators be prevented from giving better shelf space to affiliated applications and services -- relationships similar to those regularly entered into by CBUI members.

In short, the coalition seems to be asking the government to handcuff its competitors, preventing them from practicing business strategies that its members themselves often practice.

Now, we all want to see an Internet economy where competitors can use different platforms to bring new services to the marketplace. But we also want to ensure that the government is not commandeered on behalf of special interests in the putative name of openness. So before the coalition gets too carried away with a newfound affection for regulation, it should study the record and examine the vast differences between the histories and practices of the cable operators on the one hand and industries the government has historically sought to regulate on the other.

For instance, unlike the cable industry, the publicly switched Bell telephone monopoly facilities were literally gifted to the Bells by the federal government in 1984 when the old Ma Bell was dissolved. Their subsequent investment in maintenance and upgrades is but a fraction of the total value of their federal inheritance. And by controlling more than 90 percent of business and residential phone lines, these companies have unparalleled monopoly leveraging ability. But even here, the government has recently eliminated most of the regulations that apply to the Bells' DSL broadband services.

By contrast, the cable industry was not built with government welfare, but rather with hundreds of billions of dollars of privately raised risk capital, including $70 billion in such private capital for necessary upgrades since 1996 alone -- a none too insignificant difference. And while cable broadband service may have solid market share, Bell company DSL subscriptions are growing more rapidly. Other emerging technologies such as WiFi, WiMax and electrical grids wait in the wings as potential, vibrant competitors.

Most important, the cable modems have shown no signs of abusing or potentially abusing their offering. Cable modem consumers can now choose from more than 300 cable modems and as many as 69 equipment manufacturers for interconnecting products. Cable modem online users can freely navigate the web unimpeded from any site. Notwithstanding the fact of its private financing, and that cable broadband is a zero-sum "shared system," cable operators are starting to provide carriage for unaffiliated Internet service providers.

And cable operators are smart enough not to poison their platform by restricting when and where consumers can surf on it. In the case of cable modems, the competitive pressures of a free marketplace seem to be taking hold.

At best, the coalition's proposal is a solution in search of a problem. At worst, it is a cynical ploy by some tech titans to employ the federal government on their behalf to disadvantage competitors.

The government is better off staying out of this one.

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